

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5767 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SAJIDMIYA ALIAS KALU

ANVARMIYA RANGUNI

Versus

POLICE COMMISSIONER

Appearance:

MR SUNIL C PATEL for Petitioner

M/S PATEL ADVOCATES for Respondent No. 1

SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/11/96

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner has challenged the order of detention dated 3.7.1996 passed by the Commissioner of Police, Surat City under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the Act"). It is alleged that the petitioner is a dangerous person within the meaning of section 2(c) of the Act. It is stated that a case being C.R. No.302/96 came to be

registered against the petitioner at Athva Police Station Station for the offences under sec.323, 308, 506(2), 114 of IPC and sec.135 of Bombay Prohibition Act. This Court by order dated 5.8.1996 made rule returnable on 2.9.1996. Shri B.C. Pandey, Commissioner of Police, Surat City has filed a reply and the Special Civil Application is being opposed by Shri Kamal Mehta, learned AGP. It is contended by Shri Sunil C. Patel, learned counsel for the petitioner that simply because some cases have been registered against the petitioner for offences under IPC, he cannot be branded as a dangerous person. He relies on the decision of the Apex Court in the case of Mustakmiya Jabbarmiya Shaikh v. M.M. Mehta, Commissioner of Police and others, (1995) 3 SCC 237.

2. I have gone through the relevant material on record with the assistance of the learned counsel. There is substance in the contention of the petitioner. Simply because some stray cases have been registered against a person he cannot be branded as a dangerous person. There is no material on record to indicate that the petitioner is a dangerous person. In view of this the detention of the petitioner is illegal and requires to be quashed and set aside.

3. In view of the aforesaid, the Special Civil Application is allowed and the order of detention dated 24.6.1996 is quashed and set aside. The petitioner is directed to be released forthwith, if he is not required in any other case. Rule is made absolute.

4. It is submitted by the learned counsel that the petitioner has been transferred from Sabarmati Jail, Ahmedabad to Sub-Jail, Bharuch. In view of this statement the release order may be sent to the Superintendent of Jail, Sub-Jail, Bharuch.

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